

with interest at a rate determined by the Secretary. If a State receives any advance under this subsection with respect to any toll bridge, tunnel, or approach thereto, then the provisions of section 103(e)(4) of this title shall not apply to such bridge, tunnel, or approach.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 95-599, title I, § 118, Nov. 6, 1978, 92 Stat. 2699.)

#### AMENDMENTS

1978—Pub. L. 95-599 designated existing provisions as subsec. (a) and added subsec. (b).

#### ACCELERATION OF PROJECTS

Pub. L. 94-280, title I, § 141, May 5, 1976, 90 Stat. 444, as amended by Pub. L. 95-599, title I, § 136, Nov. 6, 1978, 92 Stat. 2709, provided that: "Not later than six months after the completion of such project, the Secretary of Transportation shall submit a report to Congress which includes, but is not limited to, a description of the methods used to reduce the time necessary for the completion of such project, recommendations for applying such methods to other highway projects, and any changes which may be necessary to existing law to permit further reductions in the time necessary to complete highway projects."

### § 125. Emergency relief

(a) An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title, for the repair or reconstruction of highways, roads, and trails which the Secretary shall find have suffered serious damage as the result of (1) natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, or (2) catastrophic failures from any external cause, in any part of the United States. In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to structural deficiencies or physical deterioration. Subject to the following limitations, there is hereby authorized to be appropriated from the Highway Trust Fund such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis: (1) Not more than \$50,000,000 is authorized to be expended in any fiscal year ending before July 1, 1972, and not more than \$100,000,000 is authorized to be expended in any one fiscal year commencing after June 30, 1972, and ending before June 1, 1976, to carry out the provisions of this section and an additional amount not to exceed \$100,000,000 is further authorized to be expended in the fiscal year ending June 30, 1973, to carry out the provisions of this section, and not more than \$25,000,000 for the three-month period beginning July 1, 1976, and ending September 30, 1976, is authorized to be expended to carry out the provisions of this section, and not more than \$100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1976, and not more than \$100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1980, to carry out the provisions of this section, except that, if in any fiscal year the total of all expenditures under this section is less than the amount authorized

to be expended in such fiscal year, the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amounts otherwise available to carry out this section in such years, and (2) prior to the fiscal year ending September 30, 1978, 60 per centum of the expenditures under this section for any fiscal year are authorized to be appropriated from the Highway Trust Fund and the remaining 40 per centum of such expenditures are authorized to be appropriated only from any moneys in the Treasury not otherwise appropriated, and for any fiscal year thereafter, 100 per centum of such expenditures are authorized to be appropriated out of the Highway Trust Fund. For the purposes of this section the period beginning July 1, 1976, and ending September 30, 1976, shall be deemed to be a part of the fiscal year ending September 30, 1977. Pending such appropriation or replenishment the Secretary may expend from any funds heretofore or hereafter appropriated for expenditure in accordance with the provisions of this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, such appropriations to be reimbursed from the appropriations herein authorized when made.

(b) The Secretary may expend funds from the emergency fund herein authorized for the repair or reconstruction of highways on Federal-aid highways, in accordance with the provisions of this chapter: *Provided*, That (1) obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (c) of this section, resulting from a single natural disaster or a single catastrophic failure in a State shall not exceed \$100,000,000, and (2) the total obligations for projects under this section in any fiscal year in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not exceed \$20,000,000. Notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on Federal-aid highways. Except as to highways, roads, and trails mentioned in subsection (c) of this section, no funds shall be so expended unless the Secretary has received an application therefor from the State highway department, and unless an emergency has been declared by the Governor of the State and concurred in by the Secretary, except that if the President has declared such emergency to be a major disaster for the purposes of the Disaster Relief and Emergency Assistance Act (Public Law 93-288) concurrence of the Secretary is not required.

(c) The Secretary may expend funds from the emergency fund herein authorized, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation

roads, whether or not such highways, roads, or trails are on any of the Federal-aid highway systems.

(d) TREATMENT OF TERRITORIES.—For purposes of this section, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered to be States and parts of the United States, and the chief executive officer of each such territory shall be considered to be a Governor of a State.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 86-342, title I, §107(a), Sept. 21, 1959, 73 Stat. 612; Pub. L. 89-574, §9(b), (c), Sept. 13, 1966, 80 Stat. 769; Pub. L. 90-495, §27(a), Aug. 23, 1968, 82 Stat. 829; Pub. L. 91-605, title I, §109(a), Dec. 31, 1970, 84 Stat. 1718; Pub. L. 92-361, Aug. 3, 1972, 86 Stat. 503; Pub. L. 94-280, title I, §119, May 5, 1976, 90 Stat. 437; Pub. L. 95-599, title I, §119, Nov. 6, 1978, 92 Stat. 2700; Pub. L. 96-106, §19, Nov. 9, 1979, 93 Stat. 799; Pub. L. 97-424, title I, §153(a), (c), (d), (h), Jan. 6, 1983, 96 Stat. 2132, 2133; Pub. L. 99-190, §101(e) [title III, §334], Dec. 19, 1985, 99 Stat. 1267, 1290; Pub. L. 99-272, title IV, §4103, Apr. 7, 1986, 100 Stat. 114; Pub. L. 100-17, title I, §§118(a)(1), (b)(1), (2), 133(b)(9), Apr. 2, 1987, 101 Stat. 156, 171; Pub. L. 100-707, §109(k), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 102-240, title I, §1022(b), Dec. 18, 1991, 105 Stat. 1951; Pub. L. 102-302, §101, June 22, 1992, 106 Stat. 252.)

#### REFERENCES IN TEXT

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (b), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

#### AMENDMENTS

1992—Subsec. (b). Pub. L. 102-302, which directed the substitution of “on Federal-aid highways” for “on the Federal-aid highway systems including the Interstate System” in two places, was executed by making the substitution for “on the Federal-aid highway systems, including the Interstate System” in two places to reflect the probable intent of Congress.

1991—Subsec. (b)(2). Pub. L. 102-240 substituted “\$20,000,000” for “\$5,000,000”.

1988—Subsec. (b). Pub. L. 100-707 substituted “and Emergency Assistance Act” for “Act of 1974”.

1987—Subsec. (b). Pub. L. 100-17, §133(b)(9)(A), substituted “the Federal-aid highway systems, including the Interstate System” for “the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors” in two places.

Pub. L. 100-17, §118(a)(1), substituted “in a State shall not exceed \$100,000,000.” for “shall not exceed \$30,000,000 (\$55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985) in any State.”

Pub. L. 100-17, §118(b)(2), designated existing provisions related to limitations placed upon obligations for projects under this section as cl. (1) and added cl. (2).

Subsec. (c). Pub. L. 100-17, §133(b)(9)(B), substituted “on any of the Federal-aid highway systems” for “routes functionally classified as arterials or major collectors”.

Subsec. (d). Pub. L. 100-17, §118(b)(1), added subsec. (d).

1986—Subsec. (b). Pub. L. 99-272 inserted parenthetical provision allowing obligations not exceeding \$55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985.

1985—Pub. L. 99-190 amended section in manner substantially identical to amendment by Pub. L. 99-272.

1983—Subsec. (a). Pub. L. 97-424, §153(a)(1), inserted “(1)” before “the repair or reconstruction of highways”, and substituted “Secretary” for “he” before “shall find have suffered”; (A) and (B) for (1) and (2), respectively; “In no event shall funds be used pursuant to this section for the” for “and (2)”; and “or responsible local official” for “after December 31, 1967, and prior to December 31, 1970.”

Pub. L. 97-424, §153(a)(2), inserted “from the Highway Trust Fund” after “appropriated”.

Pub. L. 97-424, §153(c), inserted “and not more than \$100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1980,” after “after September 30, 1976.”

Subsec. (b). Pub. L. 97-424, §153(d), inserted proviso establishing a \$30,000,000 limit for obligations relating to a single natural disaster in any one State.

Pub. L. 97-424, §153(h)(1), substituted “the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors,” for “the Federal-aid highway systems, including the Interstate System”, wherever appearing.

Subsec. (c). Pub. L. 97-424, §153(h)(2), substituted “routes functionally classified as arterials or major collectors” for “on any of the Federal-aid highway systems”.

1979—Subsec. (b). Pub. L. 96-106 inserted provision that notwithstanding any provision of this chapter actual and necessary costs of maintenance and operation of ferryboats providing temporary substitute highway traffic service, less the amount of fares charged, may be expended from the emergency fund herein authorized on the Federal-aid highway systems, including the Interstate System.

1978—Subsec. (a). Pub. L. 95-599 inserted “prior to the fiscal year ending September 30, 1978” after “such years, and (2)”, and inserted provision authorizing appropriations of 100 percent of expenditures out of the Highway Trust Fund.

1976—Subsec. (a). Pub. L. 94-280, §119(a)(1)-(3), inserted “, and ending before June 1, 1976,” after “June 30, 1972.”, authorized expenditure of not more than \$25,000,000 for the three-month period beginning July 1, 1976, and ending September 30, 1976, and not more than \$100,000,000 in any one fiscal year commencing after September 30, 1976, and inserted provision that for the purposes of this section the period beginning July 1, 1976, and ending September 30, 1976, shall be deemed to be a part of the fiscal year ending September 30, 1977.

Subsec. (b). Pub. L. 94-280, §119(b), excepted from the requirement of a concurrence by the Secretary an emergency declared by the President to be a major disaster for purposes of the Disaster Relief Act of 1974.

1972—Subsec. (a). Pub. L. 92-361 substituted provisions setting forth maximum expendable amounts for fiscal years ending July 1, 1972 and for fiscal years commencing after June 30, 1972 and an additional amount for fiscal year ending June 30, 1973 for provisions setting forth maximum expendable amount for any fiscal year.

1970—Subsec. (a). Pub. L. 91-605 provided emergency relief for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State after December 31, 1967, and prior to December 31, 1970, because of imminent danger of collapse due to structural deficiencies or physical deterioration.

1968—Subsec. (a). Pub. L. 90-495 permitted the use of the emergency fund for repair or construction caused by other than natural catastrophes.

1966—Subsec. (a). Pub. L. 89-574, §9(c), raised from \$30,000,000 to \$50,000,000 the upper limit on allowable annual appropriations to establish and replenish the fund, provided that, if, in any fiscal year the total of all expenditures under this section is less than \$50,000,000, the unexpended balance of such amount shall remain available for expenditure during the next two succeeding fiscal years in addition to amount otherwise available, and provided that 60 per centum of the expendi-

tures under this section are authorized to be appropriated from the Highway Trust Fund and the remaining 40 per centum of such expenditures are authorized to be appropriated only from any monies in the Treasury not otherwise appropriated.

Subsec. (c). Pub. L. 89-574, §9(b), added parkways, public lands highways, public lands development roads, and trails to the list of types of roads the repair or reconstruction of which may be paid for out of the emergency fund.

1959—Pub. L. 86-342, among other changes, made expenditures from the emergency fund subject to the provisions of section 120 of this title, and permitted the Secretary to expend funds from the emergency fund, either independently or in cooperation with any other branch of the Government, State agency, organization, or person, for the repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, and Indian reservation roads, whether or not such highways, roads, or trails are on any of the Federal-aid highway systems.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-240 applicable only to natural disasters and catastrophic failures occurring after Dec. 18, 1991, see section 1022(c) of Pub. L. 102-240, set out as a note under section 120 of this title.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Section 118(a)(2) of Pub. L. 100-17 provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to natural disasters and catastrophic failures occurring after December 31, 1985."

Section 118(b)(3) of Pub. L. 100-17 provided that: "The amendments made by paragraphs (1) and (2) [amending this section] shall take effect on the date of the enactment of this Act [Apr. 2, 1987]."

#### EFFECTIVE DATE OF 1983 AMENDMENT

Section 153(e) of Pub. L. 97-424 provided that: "The amendments made by subsection (d) of this section [amending this section] shall apply to natural disasters or catastrophic failures which the Secretary finds eligible for emergency relief subsequent to the date of enactment of this section [Jan. 6, 1983]."

#### EFFECTIVE DATE OF 1968 AMENDMENT

Section 27(c) of Pub. L. 90-495 provided that: "The amendments made by this section [amending this section and section 120 of this title] shall be applicable to repair or reconstruction with respect to which project agreements have been entered into on or after January 1, 1968."

#### EFFECTIVE DATE OF 1966 AMENDMENT

Section 9(d) of Pub. L. 89-574 provided that: "The amendments made by this section [amending this section] shall take effect July 1, 1966."

#### EXPENDITURES MADE PRIOR TO FISCAL YEAR ENDING SEPTEMBER 30, 1978; APPROPRIATION FROM HIGHWAY TRUST FUND

Section 153(b) of Pub. L. 97-424 provided that: "Notwithstanding any other provision of law, all expenditures made under section 125 of title 23, United States Code, prior to the fiscal year ending September 30, 1978, are authorized to have been appropriated from the Highway Trust Fund."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104, 120, 157 of this title.

### § 126. Diversion

(a) Since it is unfair and unjust to tax motor-vehicle transportation unless the proceeds of

such taxation are applied to the construction, improvement, or maintenance of highways, after June 30, 1935, Federal aid for highway construction shall be extended only to those States that use at least the amounts provided by law on June 18, 1934, for such purposes in each State from State motor vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor-vehicle owners and operators of all kinds for the construction, improvement, and maintenance of highways and administrative expenses in connection therewith, including the retirement of bonds for the payment of which such revenues have been pledged, and for no other purposes, under such regulations as the Secretary of Transportation shall promulgate from time to time.

(b) In no case shall the provisions of this section operate to deprive any State of more than one-third of the entire apportionment authorized under this chapter to which that State would be entitled in any fiscal year. The amount of any reduction in a State's apportionment shall be reapportioned in the same manner as any other unexpended balance at the end of the period during which it otherwise would be available in accordance with section 104(b) of this title.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 901; Pub. L. 93-87, title I, §152(3), Aug. 13, 1973, 87 Stat. 276.)

#### AMENDMENTS

1973—Subsec. (a). Pub. L. 93-87 substituted "Secretary of Transportation" for "Secretary of Commerce".

### § 127. Vehicle weight limitations—Interstate System

(a) IN GENERAL.—No funds shall be apportioned in any fiscal year under section 104(b)(1) of this title to any State which does not permit the use of The Dwight D. Eisenhower System of Interstate and Defense Highways within its boundaries by vehicles with a weight of twenty thousand pounds carried on any one axle, including enforcement tolerances, or with a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances, or a gross weight of at least eighty thousand pounds for vehicle combinations of five axles or more. However, the maximum gross weight to be allowed by any State for vehicles using The Dwight D. Eisenhower System of Interstate and Defense Highways shall be twenty thousand pounds carried on one axle, including enforcement tolerances, and a tandem axle weight of thirty-four thousand pounds, including enforcement tolerances and with an overall maximum gross weight, including enforcement tolerances, on a group of two or more consecutive axles produced by application of the following formula:

$$W=500 \left( \frac{LN}{N-1} + 12N + 36 \right)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except